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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/765,207

01/28/2004

Francesco Braghioli

66396-130

7645

7590 10/17/2007
MCDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

EXAMINER

VALENTIN, JUAN D

ART UNIT	PAPER NUMBER
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2877

MAIL DATE	DELIVERY MODE
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10/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/765,207

Applicant(s)

BRAGHIROLI, FRANCESCO

Examiner

Juan D. Valentin II

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE 07/19/2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 06/18/2007 have been fully considered but they are not persuasive. As indicated by the examiner in paragraph 2 of the advisory action dated 07/09/2007, Mian et al. teaches that accurate readings of the wheel under test can be taken without contacting the wheel while the is stationary or in motion (emphasis added, col. 3, lines 48-52). Examiner submits that explicitly this statement by Mian et al. does not use the exact term "rotating" as claimed in the instant applicant. However, it is implicit especially given Fig. 15 (col. 19, lines 31-36) and the previously cited passage that a wheel in motion at least could be considered "rotating" and it would be well within the level of one of ordinary skill in the art at the time of the claimed invention to construe this teaching of Mian et al. to include the measurement of tire tread while the tire itself was in motion, i.e. "rotating".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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2. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conheady et al (US 2002/0018218) in view of Mian et al (US 5,636,026) and Wada et al (US 5,485,406).

Conheady et al shows a similar triangulation-based system for measuring a vehicle wheel, including means for emitting a light beam and means for measuring the position of the reflected beam. The reference teaches a rotary angle sensor as in instant claim 7; see the last section of claim 12 of Conheady et al.

Conheady et al does not appear to teach that such a system can be used to measure the tread of a tire. Mian et al, in particular in figure 5, teaches using a similar triangulation-based system to measure tire tread when a tire is stationary or in motion, i.e. rotating; see column 3, lines 48-52 & column 19, lines 31-36. It would have been obvious to measure the moving tire tread with a triangulation device such as shown by Conheady et al because, as shown by Mian et al, those in the art knew that such triangulation systems could be usefully used to measure tire tread. The use of such a system to measure any feature of interest which is known to be related to tread profile would have been obvious. Wada et al also shows a contact less tire tread measuring system, and includes a rotary encoder (Fig. 1A, ref. 6, col. 3, lines 14-39), which provides the associated rotary angle of the wheel as the tread is measured. It would have been obvious to provide such a known rotary encoder in a system such as claimed because it is known in general to do so, as shown by Wada et al, and would provide useful information as to, for example, where on the tire measured features of the tread are located.

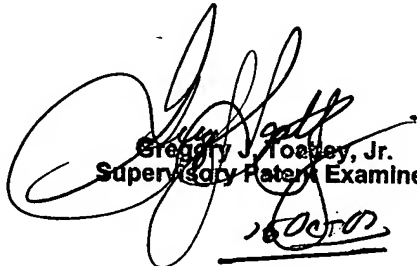
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Juan D. Valentin II whose telephone number is (571) 272-2433. The examiner can normally be reached on Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2800 ext. 77. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JDVII/
Juan D Valentin II
Examiner 2877
JDV
October 4, 2007


Gregory J. Toatley, Jr.
Supervisory Patent Examiner